

BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
June 5, 2023

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA”) held on June 5, 2023. The Board met in compliance with New York State Open Meetings Law, as amended. The meeting was called to order at 3:06 PM.

Board Members Present

Interim Vice-Chair Jeanette T. Jurasek
Secretary Frederick G. Floss
Director Andrew A. SanFilippo
Mayor Byron W. Brown (proxy Dowell)
County Executive Mark C. Poloncarz (proxy Cornell)

Board Members Excused

Chair R. Nils Olsen, Jr.

Staff Present

Executive Director Jeanette M. Robe
Administrative Assistant Nikita M. Fortune
Principal Analyst/Media Liaison Bryce E. Link

Additionally Present

Mr. Richard A. Grimm, III, Esq., Magavern Magavern & Grimm LLP
Ms. Mary Scarpine, Esq., Senior Deputy Corporation Counsel, City of Buffalo

Opening Remarks

Chair Pro Tem Floss welcomed everyone to the Special Board meeting and thanked all that were in attendance.

Roll Call of Directors

Chair Pro Tem Floss then reviewed the agenda and asked Executive Director Robe to call the roll.

City of Buffalo (“City”) Commissioner of Finance, Mr. Delano Dowell, represented Mayor Byron W. Brown in accordance with Subdivision 1 of §3853 of the BFSA Act.

Erie County Deputy Budget Director, Mark Cornell, represented County Executive Mark C. Poloncarz, in accordance with Subdivision 1 of §3853 of the BFSA Act.

Subdivision 1 of §3853 of the BFSA Act reads: “...The Mayor and the County Executive shall serve as ex officio members. Every director, who is otherwise an elected official of the City [of Buffalo] or County [of Erie], shall be entitled to designate a single representative to attend, in his or her place, meetings of the Authority and to vote or otherwise act in his or her behalf. Such designees shall be residents of the City of Buffalo (“City”). Written notice of such designation shall be furnished prior to any participation by the signal designee...”

A quorum being present, the meeting commenced.

City of Buffalo (“City”)

Declaration of Incomplete 2024-2027 Financial Plan

Chair Pro Tem Floss advanced the agenda to review the resolution to declare the City’s 2024-2027 Financial Plan incomplete as determined at the May 17, 2023, BFSA board meeting. A copy of the draft meeting minutes were included in the Director’s board packet for review. The 2024-2027 Financial Plan was deemed incomplete due to the following reasons:

1. The District’s financial plan has not been completed. The resolution requires the Mayor to submit this item upon completion
2. The BFSA is unable to make a determination as to the reasonableness of certain revenue estimates including state aid, cannabis tax revenue and casino revenue. A requirement for the Mayor to submit support for the underlying assumptions for said revenue estimates
3. The Financial Plan includes federal stimulus revenue in excess of the currently approved American Rescue Plan Act (“ARPA”) spending plan. The resolution requires the submission of a revised and approved ARPA spending plan that is consistent with the Financial Plan. It was noted that this item is in the process of being finalized.

The resolution requires the submission of the aforementioned items by June 12, 2023.

Chair Pro Tem Floss asked for a motion to approve RES NO. 23-02, Declaration of Incomplete Financial Plan. Interim Vice Chair Jurasek made the motion as requested. Director SanFilippo seconded the motion.

The Board voted 5 to 0 to approve.

BFSA Executive Director Robe stated BFSA staff has been working with Commissioner Dowell and expects a revised ARPA plan to be filed with Common Council for its meeting on June 12, 2023. Commissioner Dowell responded the Administration anticipates filing the revised plan with Common Council by Thursday, June 8, 2023 at 2pm for review at the June 12, 2023 Council meeting to account for the additional \$50.0M ARPA revenue replacement funding included in the 2024-2027 Financial Plan. Commissioner Dowell stated the Mayor has been in contact with the Governor’s Office to request an increase in State Aid which has been held flat at \$161.3M since 2012. The Administration is confident that State Aid will be increased as a response to increased inflation. Commissioner Dowell stated the cannabis tax collection of \$3.0M is an estimate as there is no data available to date. The licenses and tax will be tracked, and the information provided to Common Council on a monthly basis.

Interim Vice Chair Jurasek asked Commissioner Dowell if the Mayor is requesting an exception to the State Aid formula or a new formula. Commissioner Dowell responded that a new formula is being requested based on latest census data. The City is trying to increase revenues and manage expenses by increasing property taxes and user fees. The Mayor’s request has been made of the Governor’s Office without the support of additional municipalities at this time.

Chair Pro Tem Floss thanked Commissioner Dowell for his cooperation and asked if the June 12, 2023 deadline is reasonable. Commissioner Dowell responded in the affirmative. Hearing no additional questions or comments, Chair Pro Tem Floss advanced the agenda.

Review of the Crossing Guards Collective Bargaining Agreement

Chair Pro Tem Floss stated the BFSA analysis was provided in the Board meeting packet and stated the costs are minimal as they are less than \$10,000 annually. Executive Director Robe stated the contract brings the Crossing Guards up to the City's living wage and provides an additional paid holiday for Juneteenth. Chair Pro Tem Floss commended the City for having a Living Wage Ordinance and asked for a motion to approve the BFSA analysis.

Interim Vice-Chair Jurasek made the motion as requested. Director SanFilippo seconded the motion.

The Board voted 5 to 0 to approve.

Public Comment Period

No additional members from the public were present for comments.

Director SanFilippo asked for clarification on the comments recorded in the May 17, 2023, meeting minutes regarding the resolution of a legal discussion between BFSA Counsel Richard Grimm, III and Buffalo City School District Counsel Nathaniel Kuzma. Counsel Grimm stated the opinion of the BFSA is that all contracts are to be reviewed by the BFSA; whereas the District disagrees. Director SanFilippo stated a desire for a stronger position to be taken on the interpretation of the statute and asked what recourse the BFSA has to address this issue at the state level. Counsel Grimm responded a formal opinion is highly unlikely and suggested the discussion continue during Executive Session during the next BFSA Board meeting. Executive Director Robe will add an Executive Session to the next meeting agenda.

Adjournment

The Board voted 5 to 0 to adjourn. Chair Pro Tem Floss thanked everyone for their patience and acknowledged the difficulty the Board faces in getting new Board members appointed.

The meeting adjourned at 3:23 PM.